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DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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Analysis of Enrolled House Bills 4050, 4317, and 4680 and Enrolled Senate Bill 388

Topic: Gift Cards
Sponsor: Representatives Miller, Meadows, and Sak and Senator Cassis
Co-Sponsors: Representatives LeBlanc, Constan, Young, Polidori, Simpson, Melton, McDowell, Ebli, Vagnozzi, Lemmons, Hood, Hopgood, Rick Jones, Hammel, Green, Warren, Alma Smith, Vagnozzi, Lahti, Condino, Hansen, Simpson, Spade, and Angerer
Senators Pappageorge, Kuipers, Basham, Birkholz, George, Gleason, Allen, Hunter and Kahn
Committee: House Commerce
Senate Commerce and Tourism
Date Introduced: House Bill 4050—January 20, 2007
House Bill 4317—February 27, 2007
House Bill 4680—April 26, 2007
Senate Bill 388—March 29, 2007
Date Enrolled: June 26 (Senate Bill 388)
June 27, 2008
Date of Analysis: May 22, 2008

Position: The Department of Labor & Economic Growth supports the bills.

Problem/Background: Gift cards are a multi-billion dollar business. Estimates of consumer spending on gift cards range from \$60-80 billion for 2007. There are two types of card. Retail gift cards are intended for use at a specific establishment (e.g. Barnes & Noble, Wendy's). Bank gift cards carry the logo of a credit, debit, or charge card company (e.g. American Express, MasterCard). They may be issued by a company, bank, mall, or other entity. The advantage of bank cards is that they can be used at a larger variety of establishments than a retail gift card. Although they are both popular and convenient, gift cards have a negative side. Inactivity or dormancy fees for non-use have been criticized by many consumer protection agencies. The TowerGroup, a subsidiary of MasterCard, estimates that consumers lose nearly \$8 billion annually due to unredeemed value, expiration, or loss of cards. Expiration dates can also be problematic. Some cards expire within six months of purchase. There also may be fees associated with cards, particularly those issued by a bank.

Description of Bill: The House bills amend the Michigan Consumer Protection Act to provide various consumer protections for gift cards or certificates by adding three new sections. House Bill 4050 prohibits certain activity with respect to gift cards, including refusal to accept, restrict in a manner inconsistent with stated terms and conditions, alter any term or condition after issuance, and failure to disclose terms and conditions. House Bill 4317 prohibits an inactivity fee or other service fee in connection with the possession or use of a gift certificate. The bill also incorporates the three new

sections into the act's list of unfair, unconscionable, or deceptive methods, acts, or practices. House Bill 4680 prohibits the sale of a gift certificate to a consumer that expires within less than 5 years.

Senate Bill 388 amends the Uniform Unclaimed Property Act by providing that the act does not apply to a gift certificate as defined in the Michigan Consumer Protection Act. The bill also changes the language in the act relating to abandonment of a gift certificate by adding "gift card" to that section and clarifying the meaning of the phrase "claimed or used" in connection with a gift certificate or card. The bill also provides for the calculation of the value of the abandoned gift certificate or card.

Summary of Arguments

Pro: Expiration dates and hidden fees on many gift cards are a source of frustration for consumers.

Con: Expiration dates on gift card are essential to firms in accounting for gift card obligations.

Fiscal/Economic Impact

(a) Department: The bills will have no fiscal impact on the department.

(b) State: The bills will have no fiscal impact on state government.

(c) Local Government

Comments: The bills will have no direct impact on local government.

Other State Departments: No other state departments are affected by the bill.

Any Other Pertinent Information: None.

Administrative Rules Impact: There is no administrative rulemaking authority in the bills.